

NOTICE OF INTENT

Department of Health and Hospitals Board of Medical Examiners

Physician Practice; Unprofessional Conduct
(LAC 46:XLV.7603)

Notice is hereby given that in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the authority vested in the Louisiana State Board of Medical Examiners (board) by the Louisiana Medical Practice Act, R.S. 37:1270, the board intends to amend its rules governing unprofessional conduct of physicians, LAC 46:XLV.7603. The proposed changes require that any physician holding herself or himself out as a specialist have completed accredited residency or fellowship training in the claimed area of specialization, and limit self-treatment and treatment of immediate family members with controlled substances to cases of an emergency.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLV. Medical Professions

Subpart 3. Practice

Chapter 76. Definition of Enforcement Terms

Subchapter B. Unprofessional Conduct

§7603. Unprofessional Conduct

A. - A.8.b. ...

9. *Failing to Adhere to Accepted Practices; Misleading Practices*—a physician shall:

- a. practice within the scope of his or her education, training and experience; and
- b. not hold himself or herself out as a specialist in an area of medical practice unless the physician has successfully completed a residency or fellowship training program, which is accredited by the American Council on Graduate Medical Education of the American Medical Association, the American Osteopathic Association, or the Royal College of Physicians and Surgeons of Canada.

10.a. - 10.f. ...

11. *Self-Treatment; Treatment of Immediate Family Members*—except in cases of emergency, physicians shall not prescribe controlled substances for themselves or their immediate family members. As respects a physician, *immediate family members* include the physician's spouse, children, parents, and siblings.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, 37:1270, 37:1285.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 37:336 (January 2011), amended LR 41:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of the proposed amendments on the family has been considered. It is not anticipated that the proposed amendments will have any impact on family, formation, stability or autonomy, as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the impact of the proposed amendments on those that may be living at or below 100 percent of the federal poverty line has been considered. It is not anticipated that the proposed amendments will have any impact on child, individual or family poverty in relation to individual or community asset development, as described in R.S. 49:973.

Provider Impact Statement

In compliance with HCR 170 of the 2014 Regular Session of the Louisiana Legislature, the impact of the proposed amendments on organizations that provide services for individuals with development disabilities has been considered. It is not anticipated that the proposed amendments will have any impact on the staffing, costs or overall ability of such organizations to provide the same level of services, as described in HCR 170.

Public Comments

Interested persons may submit written data, views, arguments, information or comments on the proposed amendment to Rita Arceneaux, Confidential Executive Assistant, Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, LA 70130, (504) 568-6820, ex. 242. She is responsible for responding to inquiries. Written comments will be accepted until 4 p.m., November 19, 2014.

Public Hearing

A request pursuant to R.S. 49:953(A)(2) for a public hearing must be made in writing and received by the board within 20 days of the date of this notice. If a public hearing is requested to provide data, views, arguments, information or comments orally in accordance with the Louisiana Administrative Procedure Act, the hearing will be held on November 24, 2014, at 10 a.m. at the office of the Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, LA 70130. Any person wishing to attend should call to confirm that a hearing is being held.

Cecilia Mouton, M.D.
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Physician Practice; Unprofessional Conduct

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Other than one-time costs for notice and rule publication estimated at a total of \$292 in FY 15, it is not anticipated that the proposed Rule change will result in any additional costs or savings to the board or other state or local governmental units. The proposed Rule change clarifies unprofessional conduct with regard to claiming oneself as a specialist without the requisite accredited residency or fellowship training and with regard to the prescribing of controlled dangerous substances to oneself or one's immediate family member except in cases of emergency.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated effect on the revenue collections of the Board of Medical Examiners or any state or local governmental unit as a result of the proposed amendments.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Any physician who: holds herself or himself out as a *specialist* but has not completed accredited residency or fellowship training in the claimed area of specialized medical practice; or treats her or his immediate family members or herself/himself with controlled substances, other than in an emergency, would be directly affected by the proposed amendments and may experience an increase in costs and/or decrease in revenue to an extent that is not quantifiable. It is not possible to estimate the impact of the proposed changes in these respects as no information or data is available as to the number of physicians who hold themselves out as a specialist but do not have accredited residency training or who prescribe controlled substances to their immediate family or themselves in other than an emergency situation. The board does not anticipate that the changes will have a material effect on paperwork or workload on affected physicians.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is not anticipated that the proposed amendments will have any significant impact on competition or employment in either the public or private sector.

Celia Mouton, M.D.
Executive Director
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John D. Carpenter
Legislative Fiscal Officer
Legislative Fiscal Office